

By: Sheffield

H.B. No. 3709

A BILL TO BE ENTITLED

AN ACT

relating to authorizing a county to impose a tax on the sale of certain solid materials and substances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 3, Tax Code, is amended by adding Chapter 329 to read as follows:

CHAPTER 329. COUNTY TAX ON SALE OF CERTAIN SOLID MATERIALS AND SUBSTANCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 329.001. DEFINITIONS. In this chapter:

(1) "First sale" with respect to taxable material means the first transfer of possession in connection with a purchase, sale, or any exchange for value of taxable material.

(2) "Place of business of the seller" means the location at which taxable materials are mined.

(3) "Seller" means a person engaged in the business of making sales of taxable materials.

(4) "Taxable material" means clay, stone, sand, gravel, aggregate, limestone, caliche, metalliferous and nonmetalliferous ores, and other solid materials or substances of commercial value excavated in solid form from natural deposits on or in the earth. The term does not include coal or lignite.

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 329.051. TAX AUTHORIZED. (a) A county by order may

1 impose a tax on the first sale of taxable material. Subsequent  
2 sales of taxable material are not subject to the tax authorized by  
3 this chapter.

4 (b) A sale of taxable material occurs in the county in which  
5 the sale is consummated. A sale of taxable material is consummated  
6 at the place of business of the seller regardless of:

7 (1) the place where the seller first receives the  
8 order for the sale;

9 (2) the place from which the seller ships or delivers  
10 the taxable material; or

11 (3) the place where transfer of title or possession  
12 occurs.

13 Sec. 329.052. TAX RATE. (a) The county by order may impose  
14 the tax authorized by this chapter at any rate not to exceed 15  
15 cents for each ton or fraction of a ton of taxable material.

16 (b) A county by order may change the rate of the tax  
17 authorized by this chapter to any rate that does not exceed the  
18 maximum rate prescribed by Subsection (a).

19 Sec. 329.053. ABOLITION OF TAX. A county by order may  
20 abolish a tax authorized by this chapter.

21 Sec. 329.054. EFFECTIVE DATE AND ENDING DATE OF TAX. The  
22 imposition of the tax authorized by this chapter, a change in a tax  
23 rate, or the abolition of the tax takes effect on the date  
24 prescribed by the county order imposing the tax, changing the rate,  
25 or abolishing the tax.

26 SUBCHAPTER C. COLLECTION AND ENFORCEMENT OF TAX

27 Sec. 329.101. DUTY TO COLLECT. (a) A county by order may

1 require the seller of taxable material to collect the tax  
2 authorized by this chapter for the benefit of the county.

3 (b) A seller required to collect the tax shall add the tax to  
4 the price of the taxable material and the tax is a part of the price  
5 of the taxable material, a debt owed to the seller of the taxable  
6 material by the person who purchased the taxable material, and  
7 recoverable at law in the same manner as the price of the taxable  
8 material.

9 Sec. 329.102. COLLECTION PROCEDURES. (a) A person  
10 required to collect a tax authorized by this chapter shall report  
11 and remit the tax to the county as provided by the county imposing  
12 the tax.

13 (b) A county by order may prescribe penalties, including  
14 interest charges, for failure to keep records required by the  
15 county, to report when required, or to remit the tax when due. The  
16 attorney acting for the county may bring suit against a person who  
17 fails to collect the tax and to remit the tax to the county as  
18 required.

19 (c) A county by order may permit a person who is required to  
20 collect a tax under this chapter to retain a percentage of the  
21 amount collected and required to be reported and remitted as  
22 reimbursement to the person for the costs of collecting the tax.  
23 The county may provide that the person may retain the amount only if  
24 the person files reports and remits the tax as required by the  
25 county.

26 SUBCHAPTER D. CLASSIFICATION OF TAX AND USE OF REVENUE

27 Sec. 329.151. NOT OCCUPATION TAX. The tax authorized by

1 this chapter is not an occupation tax on the person that mines the  
2 taxable material or on the seller of the taxable material.

3 Sec. 329.152. USE OF REVENUE. A county may use revenue from  
4 the tax authorized by this chapter only to operate, maintain, and  
5 improve county roads.

6 SECTION 2. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2017.